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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,511	02/04/2002	Thomas Frederick Enns	747/9-1647	7543

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EXAMINER

DESANTO, MATTHEW F

ART UNIT PAPER NUMBER

3763

DATE MAILED: 10/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/067,511

Applicant(s)

ENNS, THOMAS FREDERICK

Examiner

Matthew F DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-9,11,12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-9,11,12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 15 recites the limitation "said groove" in line 1: There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 5, 6,7,8,9,11,12,14,16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sandstrom et al. (USPN 6,613,015).

Sandstrom et al. discloses a needle device with an L-shaped hollow needle (30), and a flexible tube (36) having one end coupled to the first portion of said needle wherein the needle device includes a spacer (22,52) and a base (4), and wherein said

spacer is formed integral to said base and said handles (46). (Figures 1-5,8 and entire reference)

As to claims 11, 12, wherein said first portion of said L-shaped needle extends substantially parallel to said base, and second portion of said L-shaped needle extends from said substantially perpendicular to said base, and wherein the needle extends approximately from said center of said base. (Figures 1-5,8 and entire reference)

As to claims 14, wherein needle device further comprises a spine (34,72) on the backside of said pair of handles, and wherein said spine includes a needle cover for covering at least a portion of said first portion of said needle and cover unitary with said spacer, base and handles. (Figures 1-5,8 and entire reference)

3. Claims 1, 3,4,6,11,12,14,15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lusson (IDS--DE 4426784).

Lusson discloses a needle device with an L-shaped hollow needle (10), and a flexible tube (12) having one end coupled to the first portion of said needle wherein the needle device includes a spacer (18) and a base (20), and wherein said spacer is formed integral to said base and said handles (24). (Figures 1,3 and entire reference)

As to claims 11, 12, wherein said first portion of said L-shaped needle extends substantially parallel to said base, and second portion of said L-shaped needle extends from said substantially perpendicular to said base, and wherein the needle extends approximately from said center of said base. (Figures 1,3 and entire reference)

As to claims 14, wherein needle device further comprises a spine (16) on the backside of said pair of handles, and wherein said spine includes a needle cover for

covering at least a portion of said first portion of said needle and cover unitary with said spacer, base and handles. (Figures 1,3 and entire reference)

4. Claims 1, 3, 4, 6, 7, 8, 9, 11, 12, 14, 15, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Barrus et al. (IDS--WO 02/45574).

Barrus et al. discloses a needle device with an L-shaped hollow needle, and a flexible tube having one end coupled to the first portion of said needle wherein the needle device includes a spacer and a base, and wherein said spacer is formed integral to said base and said handles. (Figures 13-18 and entire reference)

As to claims 11, 12, wherein said first portion of said L-shaped needle extends substantially parallel to said base, and second portion of said L-shaped needle extends from said substantially perpendicular to said base, and wherein the needle extends approximately from said center of said base. (Figures 13-18 and entire reference)

As to claims 14, wherein needle device further comprises a spine on the backside of said pair of handles, and wherein said spine includes a needle cover for covering at least a portion of said first portion of said needle and cover unitary with said spacer, base and handles. (Figures 13-18 and entire reference)

#### ***Response to Arguments***

5. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

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**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.



Matthew DeSanto  
Art Unit 3763  
September 30, 2003



BRIAN L. CASLER  
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